

GREHER LAW OFFICES, P.C..

ATTORNEY FOR DEBTORS

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WARREN GREHER, ESQ. (7174)

DATE : **MARCH 10, 2015**

TIME: **10:45 A.M.**

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

In Re:

Case No. 13-37651 (CGM)

YITSCHAK GOLDSTEIN

CHAPTER 13

Debtor

-----X

AFFIRMATION IN OPPOSITION

WARREN GREHER, an attorney duly admitted to practice law in the State of New York and before the Federal District Court for the Southern District of New York, alleges under the penalties of perjury as follows:

1. I am a member of Greher Law Offices, attorneys for the debtor, Yitschak Goldstein.

2. Unless otherwise stated, this affirmation is based upon my personal knowledge and is in opposition to Notice of Motion for administrative claim returnable before this Court on March 10, 2015.

3. For the reasons set forth herein, the motion should be denied in its entirety.

4. At the outset, it is the debtor's position that the motion is procedurally defective.

It would appear that the motion was filed on line the evening of March 3, 2015 and returnable before this Court on March 10, 2015. It is respectfully submitted to this Court that the movant improperly noticed

this motion for March 10 and that it is insufficient time under the rules for the debtor to, in fact, respond to said application.

5. Debtor additionally submits to this Court that no service was ever effected on either the debtor or debtor's counsel.

6. It would appear by the application that the movant is seeking permission from this Court to file an administrative claim pursuant to 11 USC Section 503(b)(1)(A). Debtor respectfully submits to the Court that such claim is in appropriate and improper under the circumstances of this case.

7. It would appear, at this time, that the movant is taking a position totally opposite to its position taken throughout this case

8. Throughout this case and previous motions for relief from the automatic stay and in opposition to debtor's motion to reclassify proof of claim filed herein, it has been the movants position that the debtor has no interest in the property that is the subject of this litigation. Movant now seeks to change that position in an attempt to file an administrative claim which is presently untimely.

9. The debtor's motion to reclassify claim, a copy of which are annexed hereto, suggested that the matter is currently pending before the Hon. Judge Roman of the United States District Court in White Plains and since there is currently outstanding a motion for summary judgment made by the defendant (movant in this case), this Court should hold everything in abeyance pending the decision of Judge Roman which, according to the moving papers herein, should be made on or before April 27, 2015.

10. If Judge Roman rules in favor of the Movant, then it would be clear and that would strongly support movant's position herein in that the status as a tenant would be further established. If Judge Roman rules in favor of the Debtor, his position is that the debtor is a contract vendee and that likewise strengthens his position and his application before this Court to reclassify or strike the proof of claim filed herein.

11. If the Court does not deny the application based upon the procedural defects herein, it is respectfully submitted and suggested that the matter be held in abeyance pending the decision of Judge Roman.

s/ Warren Greher
WARREN GREHER

Affirmed: March 9, 2015

STATE OF NEW YORK)
COUNTY OF ORANGE) ss.:

I, Nancy Castelli, being sworn, say: I am not a party to the action, am over 18 years of age and reside at Newburgh, New York.

*On **March 9, 2015** , I served the annexed **Affirmation in Opposition** by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to the following person and or Presidents of the companies at the last known address set forth after the name:*

*Jeffrey L. Sapir, Trustee
399 Knollwood Road
White Plains, New York 10603*

*President,
KJ Acres LLC
82 Forest Road, Unit 302
Monroe, New York 10950*

*Cohen, Labarbera & Landrigan LLP
40 Matthews Street, Suite 203
Goshen, New York 10924*

s/ Nancy Castelli

Nancy Castelli

*Sworn to before me on
March 9, 2015*

s/ Warren Greher

Notary Public
*Warren Greher
Notary Public, State of New York
No. 4625563
Qualified in Orange County
Commission Expires September 30, 2018*